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UNCLAS SECTION 01 OF 02 ANKARA 000137

SIPDIS

DEPT FOR EB/TPP/MTA/IPC, EUR/SE AND E/CBA  
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SENSITIVE

E.O. 12958: N/A  
TAGS: [ETRD](#) [KIPR](#) [TU](#)  
SUBJECT: GOT to Announce Data Exclusivity Policy Soon: Need  
to Weigh in Now

Ref: (A) Ankara 21 (B) 2003 Ankara 7785  
(C) Ankara 7761

[1](#)1. (U) This is an action cable. Please see para 7.

Summary

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[1](#)2. (SBU) Prompted by the need to respond to the European Commission's decision last month to examine pharmaceuticals trade policies, the GOT is likely to announce its plans to implement data exclusivity protection for pharmaceuticals and to address price discrimination and other issues raised by the industry. According to press reports and industry sources, this announcement might come as early as January [1](#)15. However, pressure from Turkish generics manufacturers is likely to result in a proposal to implement data exclusivity with an unacceptably long transition period and/or linkage to Turkey's EU accession. Embassy urges Washington agencies to weigh in on this issue promptly, posing dates for an expert-level delegation, sending a Minister-level letter and - if necessary - raising it during the Prime Minister's Washington visit in late January. End Summary.

GOT Under Pressure to Address Data Exclusivity

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[1](#)3. (U) In December, the European Commission accepted the European Federation of Pharmaceuticals Industries and Associations' (EFPIA's) request for an investigation of Turkish trade policies under the EU's Trade Barrier Regulation. Data exclusivity, lack of regulatory transparency and discriminatory pricing practices are among EFPIA's complaints. According to press reports, the GOT is planning to respond to the EU within 30 days (January 15).

[1](#)4. (SBU) GOT officials, including Ministers Babacan and Coskun, have told the Ambassador that the GOT is working on the data exclusivity problem (ref A and B), and Health Ministry officials promised that a regulation would be implemented during the first half of 2004 (ref C). They did not provide details, but hinted at a lengthy transition process, which we said would be unacceptable. MFA Deputy U/S for Economic Affairs Kilic also told the Charge on January 7 that the GOT was working on this problem, but did not provide any details. Pfizer's Health Policy Manager Fahreddin Tatar told us on January 6 that the Prime Minister had indicated his desire to resolve the issue at a meeting with the foreign investors association (Turkish acronym YASED) members in December.

[1](#)5. (U) In the last month, however, the generics industry has gone on a public relations offensive to convince the GOT and the public that the costs of implementing data exclusivity are unacceptably high. In December, Bulent Eczacibasi, Chairman of the generics-dominated Pharmaceuticals Manufacturers' Association, told the press that data exclusivity would cost Turkish manufacturers USD 660 million and that overall drug spending would increase by twice that much over the first six years of implementation. He contended that immediate implementation would threaten the existence of a local pharmaceuticals industry and significantly boost government spending. Eczacibasi maintained that the GOT should insist on a transition period for implementation, perhaps lasting until 2007.

16. (SBU) Pfizer believes that the GOT is under intense pressure from the generics industry and that it may announce implementation by January 15 with a transition period that could run as long as the end of 2007. We understand that Eczacibasi and his colleagues visited Ankara this week to lobby government officials on this. Tatar said that the research-based industry association (Turkish acronym AIFD) was attempting to lobby the Prime Minister directly on this issue, and that it had asked the EU Mission in Ankara to press its case as well. He suggested that further USG support on this issue would be helpful. AIFD plans its own press conference on data exclusivity and related issues in Istanbul on January 9.

COMMENT AND ACTION REQUEST

17. (SBU) EMBASSY BELIEVES THE GOT MAY BE CLOSE TO ANNOUNCING THAT IT WILL IMPLEMENT DATA EXCLUSIVITY WITH A TRANSITION PERIOD OF SEVERAL YEARS. EMBASSY WILL CONTINUE TO ARGUE VIGOROUSLY AGAINST SUCH A LENGTHY TRANSITION PERIOD, BUT ALSO RECOMMENDS THAT WASHINGTON AGENCIES ENGAGE THE GOT ON THIS ISSUE AS SOON AS POSSIBLE. WASHINGTON COULD PROPOSE DATES FOR THE EXPERT-LEVEL DISCUSSIONS ON IPR PROMISED AT THE 2003 ECONOMIC PARTNERSHIP COMMISSION MEETING. WE ALSO REITERATE OUR RECOMMENDATION THAT WASHINGTON OUTLINE OUR CONCERNS IN WRITING, SUCH AS THROUGH A JOINT LETTER FROM USTR ZOELICK AND COMMERCE SECRETARY EVANS TO STATE MINISTER TUZMEN (REF C). IF NECESSARY, WE SHOULD ALSO RAISE THE ISSUE DURING PM ERDOGAN'S VISIT TO WASHINGTON IN LATE JANUARY. DEUTSCH